

PERSONAL RIGHTS, DUTIES, AND REMEDIES

TITLE 41

CITIZENSHIP, ALIENAGE AND IMMIGRATION

Chapters:

- 01 Citizenship (Reserved)**
- 02 General Provisions**
- 03 Immigration-Registration**
- 04 Immigration-Status**
- 05 Entry and departure**
- 06 Deportation**
- 07 General Penalty Provision**
- 08 Foreign investor entry permits.**
- 09 Guest Worker Permit**

Case Notes:

American Samoa, unlike the Fifty States and the other Territories of the United States, is specifically excluded from the scope of federal immigration laws and has, pursuant to congressionally-delegated authority, enacted its own immigration laws. 8 U.S.C. § 1101(13), (29), (36), (38); A.S.C.A., Title 41. American Samoa Government v. Falefatu, 17 A.S.R.2d 114 (1990).

Reviser's Comments:

Section 1 of PL 18-52, 1984, provides that "this act shall be known and may be cited as The Immigration Act of 1984."

Amendments: 1984.

Chapter 01

CITIZENSHIP

(RESERVED)

Chapter 02

GENERAL PROVISIONS

Sections:

- 41.0201 Purpose-Interpretation.**
- 41.0202 Definitions.**
- 41.0203 Immigration Board-Creation-Members.**
- 41.0204 Meeting-Quorum-Vote.**
- 41.0205 Powers and duties of Board.**
- 41.0206 Powers and duties of Administrative Law Judge.**
- 41.0207 Powers and duties of the Attorney General.**
- 41.0208 Burden of proof.**
- 41.0209 Review of detention proceedings.**
- 41.0210 Petition for review.**

- 41.0211 Scope of review-Evidence.**
- 41.0212 Stay of deportation.**
- 41.0213 Decisions by court.**

41.0201 Purpose-Interpretation.

(a) The United States Congress has, when considering Organic Acts for American Samoa on several occasions, recognized the rights of the people of American Samoa to determine their political future, and in recognition of the present policy of the United States Government to develop American Samoa for American Samoans, and in furtherance of the provisions of the Constitution of American Samoa, Article I, Section 3, authorizing enactment of such legislation as may be necessary to protect the lands, customs, culture, and traditional American Samoan family organizations of persons of American Samoa ancestry, and to encourage business enterprises by American Samoans, the Legislature finds there are limited land resources, water, sewage facilities, and educational and economic opportunities in American Samoa. Therefore, with the increasing mobility of today's population, the only way to preserve the American Samoan culture and way of life and allow the people of American Samoa to determine their political and economic future is to restrict the entry of non-American Samoans into American Samoa. With this in mind, the Legislature has enacted this title and it must be so construed for the protection of the people of American Samoa, their lands, and their economic and political future.

(b) This title is to be interpreted and construed so as to effect its general purpose to limit entry into American Samoa to persons of American Samoa ancestry, their spouses and their children.

History: 1984, PL 18-52 § 2.

Case Notes:

The sole, stated purpose of the Territorial immigration statute is to preserve the "limited land resources, water, sewage facilities, and educational and economic opportunities" of American Samoa. A.S.C.A. § 41.0201. *American Samoa Government v. Falefatu*, 17 A.S.R.2d 114 (1990).

41.0202 Definitions.

(1) As used in this title unless the context requires otherwise:

(a) "Alien" means all persons who are not nationals or citizens of the United States of America. "Foreign" also means all persons who are not nationals or citizens of the United States of America, and may be used interchangeably with alien.

(b) "Attorney General" means the Attorney General of American Samoa or his designated representative.

(c) "American Samoan" means a person born:

(i) of American Samoan ancestry in American Samoa or in the United States; or

(ii) outside of American Samoa, but one of whose parents was born in American Samoa of Samoan ancestry and who has registered with the Board within 3 years of his eighteenth birthday, or the enactment of this section, whichever is later.

(d) "American Samoan ancestry" means lineal descendants of the inhabitants of Tutuila and Swains Islands whose permanent place of residence was American Samoa on 17 April 1900, and the inhabitants of Manu'a Islands whose permanent place of residence was American Samoa on 16 July 1904.

(e) "Board" means the Immigration Board of American Samoa.

(f) “Children” means legitimate or legitimated child, or stepchildren, or children adopted while under the age of 12 years or in relation to their mother illegitimate children provided the children are residing with their parents or stepparents.

(g) “Crewman” means a person serving in any capacity on Board a vessel or aircraft.

(h) “Immigration officer” means an employee of the immigration division of the government.

(i) “Minor” means a child or children of age 18 years or younger.

(j) “National of the United States” means either a citizen of the United States, or a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(k) “Owner” means the agent, transportation line, master, commanding officer or consignee of a vessel or aircraft.

(l) “Parent” or “Stepparent” means a parent or stepparent only where the relationship exists by reason of any of the circumstances in (f) above.

(m) “Permanent resident” is a person who meets the eligibility criteria in chapter 04 of this title.

(n) “Post-secondary institution of higher learning” means an institution of post-high school instruction which certifies its graduates by conferring degrees or certificates. Such institutions are limited to, the presently existing local bible and church colleges which offer post-high school ministerial and/or pastoral training which culminates in the conferring of a degree or certification.

(o) “Spouse” does not include a spouse by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated.

(p) “Permanent” means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of American Samoa or of the individual in accordance with law.

(q) “Person” means an individual, and includes a firm, partnership, joint venture or corporation where the context so requires.

(r) “Police officer” means a police officer of the government.

(s) “Residence” means a person’s principal actual place of abode, in fact, without regard to intent.

(t) “Tourist” means a person visiting American Samoa for the purposes of sightseeing, who intends to remain in American Samoa less than 30 days and who has a residence in the United States or a foreign country which he has no intention of abandoning, and who is visiting American Samoa temporarily for business or pleasure.

(2) For the purposes of this title, no person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established, is, or was:

(a) a habitual drunk;

(b) a member of one or more of the classes of persons, whether excludable or not, described in 41.0615(9), (10), (11), (12), if the offense described therein, for which such person was convicted or of which he admits the commission, was committed during such period:

(c) one whose income is derived principally from illegal gambling activities;

(d) one who has been convicted of 2 or more gambling offenses committed during such period:

(e) one who has given false testimony for the purpose of obtaining any benefits under

this title:

(f) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of 180 days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(g) one who at any time has been convicted of the crime of murder or rape.

The fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.

(3) For the purposes of this title any person ordered deported (whether before or after the enactment of this title) who has left American Samoa, shall be considered to have been deported pursuant to law, irrespective of the source from which the expenses of his transportation was defrayed or of the place to which he was deported.

History: 1984, PL 18-52 § 2; amd 1985, PL 19-16 § 1, amd 2004, PL 28-13.

Amendments: 1985 Subsection (1)(c)(iii): deleted.

Subsection (1)(d): word changed to correct typographical error.

41.0203 Immigration Board-Creation-Members.

There is created the Immigration Board of American Samoa, consisting of 7 at-large members, who are nationals or citizens of the United States of American Samoan ancestry. The members shall be appointed by the Governor with the consent and approval of the Legislature. The 7 at-large members shall serve for 5 year terms, but for no more than 2 consecutive terms: except the original appointees shall be appointed for terms of 1, 2, 3, 4 or 5 years. Members shall serve on the Board until a successor is approved. The Board members shall elect their own chairman annually.

History: 1984, PL 18-52 § 2; amd 2013, PL 33-5.

41.0204 Meetings-Quorum-Vote.

The Board shall meet at times and places determined necessary by the chairman for conducting business of the Board. The presence of at least 4 members shall be necessary to constitute a quorum and a vote of the majority will be required to decide any issue. All members of the Board including the chairman shall be entitled to one vote.

History: 1984, PL 18-52 § 2; amd 2013, PL 33-5; amd 2016, PL 34-17.

41.0205 Powers and duties.

The Board may:

(1) hold hearings concerning the status or exclusion of any person other than American Samoans, their spouses and their children, seeking permission to enter or remain in American Samoa; the board shall create and maintain a record of all proceedings conducted before the board in order to preserve as complete a record as possible for review by the Administrative Law Judge in accordance with A.S.C.A., 4.0601;

(2) deport any alien after the alien has been accorded an opportunity for a public hearing;

(3) hold any other hearing as necessary for the enforcement of this title;

(4) investigate any matter pertaining to enforcement of this title, through a representative authorized by the Board;

- (5) subpoena documents and witnesses, compel testimony and cite for contempt;
- (6) examine the books, records and accounts of all employers in American Samoa concerning employment of aliens;
- (7) make rules and regulations necessary for the enforcement of this title; such regulations shall include requirements as to deportability that;
 - (a) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held;
 - (b) the alien shall have the privilege of being represented, at no expense to the government, by such attorney, who is authorized to practice before the High Court of American Samoa, as he shall choose;
 - (c) the alien shall have a reasonable opportunity to examine the evidence against him, to represent evidence in his own behalf, and to cross-examine witnesses presented by the Government; and
 - (d) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence; such decisions shall be in writing;
- (8) subject to the exception in section 41.0306.1, make rules and regulations concerning the approval or disapproval of aliens to attend school or college, to secure a business license, or to be employed in the Territory;
- (9) make available for public inspection all rules and written statements of policy, or interpretations formulated, adopted or used by the Board in discharge of its functions;
- (10) make available for public inspection all final orders, decisions and opinions;
- (11) delegate any of its administrative duties to the Attorney General or immigration officers of American Samoa;
- (12) require the registration of all aliens residing in American Samoa and may photograph and fingerprint those aliens in order to issue identification cards on forms prescribed and prepared by the Board.

History: 1984, PL 18-52 § 2; 2004, PL 28-13, amd 2004, PL 28-17.

Case Notes:

An alien in a deportation proceeding is entitled to cross-examine the government's witnesses, and an improper curtailment of this right constitutes a violation of procedural due process. U.S. Constitution Amend. V; Rev. Const. Am. Samoa Art. I, § 2; A.S.C.A. § 41.0205(7)(c); A.S.A.C. § 41.0807(a). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

The Immigration Board may deport an alien only after he has been accorded an opportunity for a public hearing. A.S.C.A. § 41.0205(2). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

Aliens facing deportation hearings are to be given notice which is "reasonable under the circumstances." A.S.C.A. §§ 41.0205(7)(a), 41.0607(a)(1). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

The Immigration Board's merely announcing a sponsorship's termination fails to meet the notice requirements for a deportation hearing, as the notice must include the time and place of the hearing. A.S.C.A. §§ 41.0205(7)(a), 41.0607(a)(1). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

41.0206 Powers and duties of the Administrative Law Judge.

The Administrative Law Judge shall have the power to review all decisions of the Immigration Board pursuant to the provisions of this title, in accordance with A.S.C.A., 4.0601, and subject to the limitations thereto.

The Administrative Law Judge shall exercise all powers as prescribed in the Administrative Procedures Act and supplemented by those enumerated in the

Administrative Law Judge Act in the discharge of its duties pursuant to this provision. Nothing in this provision shall affect the powers prescribed to the board, the Attorney General or the Immigration Office as outlined in this Title.

History: 2004, PL 28-17.

41.0207 Powers and duties of the Attorney General.

The Attorney General shall be charged with the administration and enforcement of this title and all other laws relating to the entrance, immigration, registration, and status of aliens, except insofar as this title or such laws relate to the powers, functions, and duties conferred upon the Board. Provided, however, that determination and ruling by the Attorney General with respect to all questions of law shall be controlling. He shall have control, direction, and supervision of all employees and of all the files and records of the immigration division and the Board. He shall establish such regulations, prescribe such forms of bond, reports, entries and other papers, issue such instructions, and perform such other acts as he deems necessary for carrying out his authority under the provisions of this title including prosecuting cases before the Board. He may delegate such duties as he deems necessary to perform or exercise any of the powers, privileges or duties conferred or imposed by this title or regulations issued thereunder upon any other employee of the Attorney General's office and of the immigration division. He shall have the power and duty to control and guard the boundaries and borders of American Samoa against the illegal entry of aliens and shall, in his discretion, appoint for that purpose such number of employees of the immigration division as to him shall appear necessary and proper in accordance with law.

History: 1984, PL 18-52 § 2, amd 2004, PL 28-17.

Case Notes:

American Samoa's Attorney General has the power to "enforce and administer" the laws pertaining to immigration and the status of aliens, and the statutory procedures are the exclusive method for "determining the deportability of any person." A.S.C.A. §§ 41.0103(a), 41.0614. *American Samoa Government v. Falefatu*, 17 A.S.R.2d 114 (1990).

41.0208 Burden of proof.

(a) Whenever any person makes application for any document required for entry or residence status or otherwise attempts to enter American Samoa, the burden of proof shall be upon that person to establish his eligibility to receive the document and that he is not subject to exclusion. If he fails to establish this to the satisfaction of the immigration officer at the port of entry, he may not be eligible to enter American Samoa.

(b) In deportation proceedings against any person, the burden of proof shall be upon that person to show the time, place and manner of entry into American Samoa, but in presenting that proof he shall be entitled to the production of any entry document or other documents and records, not considered to be confidential, pertaining to his entry and in the custody of the Attorney General.

(c) If the burden of proof is not sustained, the person is presumed to be in American Samoa in violation of the law.

History: 1984, PL 18-52 § 2, amd 2004, PL 28-17.

41.0209 Review of detention proceedings.

(a) The Trial Division of the High Court of American Samoa may review in a habeas corpus proceeding any determination of the Attorney General concerning detention, release on bond, or parole, pending decision of the deportability.

(b) If the High Court finds that the Attorney General is not proceeding with such, reasonable dispatch as may be indicated by particular facts and circumstances to determine deportability, the Court may order the individual's release on such terms and conditions as the court deems necessary.

History: 1984, PL, 18-52 § 2, amd 2004, PL 28-17.

41.0210 Petition for review.

A petition for review may be filed with the Appellate Division of the High Court not later than 15 days from the date of the final decision of the Board; the action shall be brought against the Board as respondent.

History: 1984, PL 18-52 § 2, amd 2004, PL 28-17.

Case Notes:

A petition for review of an Immigration Board's decision need not be dismissed or be refiled to correct the names of the appellees in the caption when the petition incorrectly included the American Samoa Government, the Attorney General, and the Chief Immigration Officer as appellees. A.S.C.A. § 41.0209, 43.0201(b); H.C.R. 3. *Farapo v. American Samoa Government*, 23 A.S.R. 2d 51 (1993).

41.0211 Scope of review-Evidence.

(a) The Court may not substitute its judgment for that of the Board as to the weight of the evidence on questions of fact. In reviewing the Board's interpretation of the evidence, its factual inferences, and its conclusions of law, the court shall give substantial weight to the Board's experience, technical competence and specialized knowledge of immigration problems in American Samoa.

(b) The review shall be confined to the record; however, the Court in its sound discretion may receive evidence to supplement the record.

History: 1984, PL 18-52 § 2, amd 2004, PL 28-17.

Case Notes:

Starting point for judicial inquiry in reviewing Immigration Board order is the record itself; where Board did not supply a complete record of its proceedings, the missing facts would be found favorably to the appellant. A.S.C.A. § 41.0210. *Rakhshan v. Immigration Board* (Mem.), 13 A.S.R. 2d 25 (1989).

Where it was not clear from Immigration Board decision that in the absence of allegedly false statements the appellant would have been deported solely because he was no longer employed, and where the court had found no false statements in the record, a stay of deportation would be granted and the matter remanded for a new hearing. A.S.C.A. § 41.0210-11. *Rakhshan v. Immigration Board* (Mem.), 13 A.S.R. 2d 25 (1989).

41.0212 Stay of deportation.

The filing of a petition under 41.0210 shall not stay the deportation of any person pending determination of the Court unless the court otherwise directs.

History: 1984, PL 18-52 § 2, amd 2004, PL 28-17.

Case Notes:

Interlocutory stay of a deportation order should be granted only when there is a substantial likelihood

that the petitioner will prevail on the merits and the petitioner will be greatly or irreparably injured if the stay is not granted. A.S.C.A. § 41.0211. *Rakhshan v. Immigration Board* (Mem.), 13 A.S.R.2d 25 (1989).

Because deportation tends severely to disrupt the life of the one deported, whether a stay is granted pending appeal of deportation order usually depends on whether the petitioner appears to have a good chance of prevailing. A.S.C.A. § 41.0211. *Rakhshan v. Immigration Board* (Mem.), 13 A.S.R.2d 25 (1989).

Where it was not clear from Immigration Board decision that in the absence of allegedly false statements the appellant would have been deported solely because he was no longer employed, and where the court had found no false statements in the record, a stay of deportation would be granted and the matter remanded for a new hearing. A.S.C.A. §§ 41.0210-11. *Rakhshan v. Immigration Board* (Mem.), 13 A.S.R.2d 25 (1989).

41.0213 Decisions by court.

The Court may reverse or modify the decision of the Board, or may remand the case for further proceedings, if substantial rights of the petitioner have been prejudiced because the decision of the Board is:

- (1) in violation of applicable constitutional or statutory provisions;
- (2) in excess of statutory authority of the agency;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- (6) arbitrary, capricious or characterized by abuse of discretion.

History: 1984, PL 18-52 § 2, amd 2004, PL 28-17.

Case Notes:

If made upon unlawful procedure, a decision of the Immigration Board may be reversed, modified, or remanded for further proceedings by the Appellate Division of the High Court. A.S.C.A. § 41.0212(3). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

Chapter 03

IMMIGRATION-REGISTRATION

Sections:

- 41.0301 Numerical limitation.**
- 41.0302 Prohibition against discrimination in immigration.**
- 41.0303 Allocation of registration receipt cards.**
- 41.0304 Duty to register.**
- 41.0305 Submission of information under oath-Authority.**
- 41.0306 Registration form.**
- 41.0306.1 Waiver-Children of foreign post-secondary students attending local institutions of higher learning.**
- 41.0307 Records confidential.**
- 41.0308 Notice of address or change of address.**
- 41.0309 Issuance of certificate of alien registration receipt card.**
- 41.0310 Certificate-Personal possession required.**
- 41.0311 Willful failure to apply for registration or photographing-Penalty.**
- 41.0312 Failure to give notice of address or change of address-Penalty.**
- 41.0313 False statements and fraud-Penalty.**

41.0314 Counterfeiting-Penalty.

41.0315 Identification card fees.

41.0301 Numerical limitation.

(a) Quarterly and yearly limits. The number of aliens born in any foreign state or dependent area who may enter American Samoa to be registered shall not in any of the first three quarters of any fiscal year exceed the total of 25, and shall not in any fiscal year exceed a total of 100 and, the total number of registration receipt cards made available to natives of any single foreign state shall not exceed 5 in any fiscal year, except these numbers shall not include Western Samoans, immediate relatives of American Samoans, nor citizens of the United States of America.

(b) Immediate relatives defined. The “immediate relatives” referred to in subsection (a) of this section shall mean the children, spouses, and parents of an American Samoan; provided, that in the case of parents, such American Samoan must be at least 21 years of age. The immediate relatives specified in this subsection who are otherwise qualified for registration shall be registered as such, without regard to the numerical limitations in this chapter.

(c) Numerical limitation of Western Samoans. Because of the historic, cultural and family interchanges between American Samoans and Western Samoans, the number of aliens born in Western Samoa who may enter American Samoa to be registered shall not in any of the first three quarters of any fiscal year exceed a total of 62, and shall not in any fiscal year exceed a total of 250.

(d) The numerical limitations established by this section shall not include aliens employed by the American Samoa Government or the United States of America, or aliens admitted and employed under chapter 09 of this Title, or other groups as further waived by Board order upon a showing of extenuating circumstances. Any alien employed under this provision who is terminated for whatever reason shall be subject to these limitations upon the expiration of 30 days from the date of termination.

(e) Aliens submitting application for registration receipt cards under this section and 41.0303 shall return to their countries of origin pending allocation of such registration receipt cards for re-entry into American Samoa. No extensions of stay beyond the original 60 days period allowed under 41.0502 (a)(2)(D) or otherwise are to be granted.

(f) Notwithstanding anything to the contrary in subsections (a) through (e), the total number of registration receipt cards made available in fiscal year 2015 to all aliens shall not exceed a total of 2,845 for aliens born in Independent State of Samoa, 457 for aliens born in the Kingdom of Tonga, 446 for aliens born in the Republic of the Philippines, 9 for aliens born in Tuvalu, 101 for aliens born in the Republic of Fiji, 96 for aliens born in the People's Republic of China, 19 for aliens born in New Zealand, 12 for aliens born in the Republic of Korea, and 6 for aliens born in the Republic of China (Taiwan), 8 for aliens born in the Commonwealth of Australia, 6 for aliens born in the Republic of Chile, 6 for aliens born in the Republic of Costa Rica, 8 for aliens born in the Federal Republic of Germany, 9 for aliens born in the Republic of Indonesia, 6 for aliens born in the Federated States of Micronesia, 7 for aliens born in the Republic of Panama, 6 for aliens born in the Independent State of Papua New Guinea, 6 for aliens born in the Republic of Peru, 7 for aliens born in the Portuguese Republic, 7 for aliens born in Romania, 6 for aliens born in the Republic of Singapore, 8 for aliens born in the Solomon Islands, 6 for aliens born in the United Kingdom of Great Britain and Northern Ireland, 6 for aliens born in the Oriental Republic of Uruguay, 9 for aliens born in the Republic of Vanuatu, and 17 for aliens born in the Socialist Republic of Vietnam. The requirements of sections

41.0301(e) and 41.0502(a)(2)(D) are hereby waived only for those aliens whose applications to remain in American Samoa were processed during the period from March 1, 2014 through and including May 31, 2014 pending final determination by the Immigration Board. Such persons are subject to the requirements of section 41.0319 and 41.0404 of the Administrative Code, including submission of all required applications and payment of fees.

(g) Section 41.0403 (a) (1) shall be strictly applied to all those applicants qualifying under Section 41.0301, thus all accumulated days, months, and years those applicants were present in American Samoa prior to the Immigration Board's approval shall not be considered as "legally present in American Samoa".

History: 1984, PL 18-52 § 2; amd 1988, PL 20-56; amd 1997, PL 25-16; amd 2007, PL 30-7; amd 2014, PL 33-14.

Reviser's Comment:

Section 7 of PL 18-52, 1984, provides that the numerical limitations in this section shall not be imposed until 1 January 1985.

41.0302 Prohibition against discrimination in immigration.

No person shall receive any preferences or priority or be discriminated against in the issuance of a registration receipt card because of his race, sex, nationality, place of birth or place of residence, except as specifically provided for in this chapter.

History: 1984, PL 18-52 § 2.

41.0303 Allocation of registration receipt cards.

(a) Categories of preference priorities. Aliens who are subject to the numerical limitations specified in 41.0301 shall be allotted registration cards as follows:

(1) in a number not to exceed 20 percent of the number specified in 41.0301 to qualified aliens who are unmarried sons or daughters of American Samoan or United States citizens;

(2) next in a number not to exceed 20 percent of the number specified in 41.0301, plus any registration receipt cards not required for the classes not specified in paragraph (1), who are the spouses, unmarried sons, or unmarried daughters of a person lawfully admitted to American Samoa as a permanent resident;

(3) next in a number not to exceed 10 percent of the number specified in 41.0301, plus any registration receipt cards not required for the classes specified in paragraphs (1) and (2) to qualified brothers and sisters of American Samoans provided such American Samoans are at least 21 years old;

(4) next in a number not to exceed 10 percent of the number specified in 41.0301, plus any registration receipt cards not required for the classes specified in paragraphs (1) through (3), to qualified aliens who are members of the professions or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the economy, cultural interests, or welfare of American Samoa and whose services in the professions, sciences, or arts are sought by an employer in American Samoa; and "professions" shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries;

(5) next in a number not to exceed 24 percent of the number specified in 41.0301, plus any registration receipt cards not required for the classes specified in paragraph (1)

through (4), to qualified persons who are capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in American Samoa;

(6) next in a number not to exceed 10 percent of the number specified in 41.0301, plus any registration receipt cards not required for the classes specified in paragraphs (1) through (5), to qualified persons who are the married sons or married daughters of American Samoans;

(7) any additional registration receipt cards shall be made available by the Attorney General, pursuant to any regulations as he may prescribe and in a number not to exceed 6 percent of the number specified in 41.0301; and

(8) registration receipt cards authorized in any fiscal year less those required for issuance to the classes specified in paragraphs (1) through (6), and less the number made available pursuant to paragraph (7), shall be made available to other qualified persons strictly in the order in which they qualify. Waiting lists of applicants shall be maintained in accordance with regulations prescribed by the Attorney General.

(9) A spouse or child as defined in this section shall, if not otherwise entitled to a registration receipt card under paragraphs (1) through (8), be entitled to the same status, and the same order of consideration provided in subsection (b), if accompanying, or following to join, his spouse or parent.

(b) Order of consideration given applicants. In considering applications for registration receipt cards under subsection (a), consideration shall be given to applicants in the order in which the classes of which they are members are listed in subsection (a).

(c) Order of issuance cards. Registration receipt cards issued pursuant to paragraphs (1) through (6) of subsection (a) shall be issued to eligible persons in the order in which an application for registration in behalf of each such person is filed with the Attorney General as provided in this chapter.

(d) Presumption of nonpreference status. Every application for a registration receipt card shall be presumed to be a nonpreference applicant until he establishes to the satisfaction of the immigration officer that he is entitled to a preference status under paragraphs (1) through (7) of subsection (a) or that he is an immediate relative of an American Samoan as specified in 41.0301(b).

History: 1984, PL 18-52 § 2.

Reviser's Comment:

Section 7 of PL 18-52, 1984, provides that the numerical limitations in this section shall not be imposed until 1 January 1985.

41.0304 Duty to register.

(a) It shall be the duty of every alien now or hereafter in American Samoa who is 14 years of age or older, has not been registered and photographed under this chapter, and remains in American Samoa for 30 days or longer, to apply for registration and photographing before the expiration of such 30 days.

(b) It shall be the duty of every parent or legal guardian of any alien now or hereafter in American Samoa, who is less than 14 years of age, has not been registered under this chapter, and remains in American Samoa for 30 days or longer, to apply for the registration of such alien before the expiration of such 30 days.

(c) Whenever any alien attains his fourteenth birthday in American Samoa he shall, within 30 days thereafter, apply in person for registration and photographing.

History: 1984, PL 18-52 § 2.

41.0305 Submission of information under oath-Authority.

(a) Every person required to register or to apply for the registration of himself or another under this chapter shall submit under oath the information required for such registration.

(b) Any person authorized under regulations issued by the Attorney General to register persons under this chapter shall be authorized to administer oaths for such purposes.

History: 1984, PL 18-52 § 2.

41.0306 Registration forms.

(a) The Attorney General is authorized and directed to prepare forms for the registration and photographing of aliens. Such forms shall contain inquiries with respect to:

- (1) the date and place of entry of the person in American Samoa;
- (2) activities in which he has been and intends to be engaged;
- (3) the length of time he expects to remain in American Samoa;
- (4) the police and criminal record, if any, of such alien; and
- (5) such additional matters as may be prescribed.

(b) The Attorney General may authorize immigration officers to record the following information regarding every person leaving or entering American Samoa: Names, age, sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in American Samoa; intended future, permanent residence; and, if a United States citizen or national, the facts on which claim to that status is based.

History: 1984, PL 18-52 § 2.

41.0306.1 Waiver—Children of foreign post-secondary students attending local institutions of higher learning.

(a) In the case of foreign students matriculating at local post-secondary institutions of higher learning, whose minor children are prohibited from attending the local schools of the Territory pursuant to requirements set forth in this title, the Attorney General or his designee, at his discretion, may issue to individual student applicants a waiver of the formal requirements under this title in order for the student applicant to bring his minor children into compliance with this title. Student applicants shall provide to the Attorney General the following documents as proof of his/her eligibility for this waiver:

- (1) Proof of legal entry into the Territory;
- (2) Proof of enrollment at a recognized post-secondary institution of higher learning within the Territory;
- (3) Proof that the student applicant is the parent or legal guardian of the minor child or children;
- (4) Relevant school documents from elementary, middle and high schools previously attended by the minor child or children;
- (5) Proof of vaccinations, inoculations and prophylactic measures of the minor child or children;
- (6) Relevant travel documents indicating date of arrival in the Territory;

(7) Any and all other documents required by the Attorney General or his designee.

(b) The waiver issued pursuant to this section shall not exceed 6 months. In no case shall there be more than 2 waivers issued for any applicant student or his children. A second waiver shall issue only upon a showing of exceptional circumstances to be determined and recorded by the Attorney General or his designee, with a copy of the decision forwarded to the Office of the Governor for recordation.

(c) If at any time during the waiver period the student applicant ceases to be enrolled at a recognized post-secondary institution of higher learning within the Territory, or the student applicant fails to discharge his duties and obligations under the laws of American Samoa, the waiver shall cease to operate. The student applicant has a continuing duty to provide the Office of the Attorney General or his designee with all requested information required by this section. The student applicant also has a continuing duty to apprise the Attorney General or his designee of any changes which occur regarding his application for the waiver, at all times during the application process as well as the waiver period.

(d) The waiver shall serve no other purpose other than to provide a grace period in which the student applicant shall bring his minor children into compliance with this title. All other requirements in this title with respect to obligations and duties of alien applicants shall apply at all times.

(e) This section in no way derogates the obligations and duties of the student applicant and his minor child pursuant to the laws and regulations of American Samoa.

(f) Statements given by a student applicant pursuant to this section are subject to the penalties of sections 41.0313 and 41.0314.

The grace period created by this waiver may be used by the appropriate authority in determining whether the applicant student and his children meet time requirements as provided for in this title.

History: 2004, PL 28-13.

41.0307 Records confidential.

All registration and photograph records made under the provisions of this chapter shall be confidential, and shall be made available only to such persons or agencies as may be designated by the Attorney General.

History: 1984, PL 18-52 § 2.

Case Notes:

Though the Immigration Board's documents are confidential by statute, this statute may not be used to deny constitutionally guaranteed due-process rights, nor does it prohibit the court from ordering the Attorney General to produce these records when needed. U.S. Constitution Amend. V; Rev. Const. Am. Samoa Art. I, § 2; A.S.C.A. § 41.0307. *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

41.0308 Notice of address or change of address.

(a) Every alien required to be registered under this chapter who is within American Samoa on the first day of January of each year, shall within 30 days following such date, notify the Attorney General in writing of his current address and furnish such additional information as may by regulation be required by the Attorney General.

(b) Any such alien shall likewise notify the Attorney General in writing of each change of address and new address within 10 days from the date of such change.

(c) Any such alien who is temporarily absent from American Samoa on the first day of

January of any year, shall furnish his current address and other information as required by this section within 10 days after his return.

(d) Any such alien in American Samoa in a lawful temporary residence status shall in like manner also notify the Attorney General in writing of his address at the expiration of each 3 month period during which he remains in American Samoa regardless of whether there has been any change of address.

(e) In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given by such parent or legal guardian.

History: 1984, PL 18-52 § 2.

Case Notes:

The ten-day statutory period for reporting an address change to the Immigration Board can only sensibly be given effect if the prescribed period is computed to exclude the last day when it happens to fall on a Saturday, Sunday, or legal holiday. A.S.C.A. § 41.0308(b). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

41.0309 Issuance of certificate of alien registration receipt card.

(a) Except as provided herein, every alien in America Samoa who has been registered and photographed under this chapter shall be issued a certificate of alien registration receipt card for a period of time not to exceed 12 months, from the date of issuance, in such form and manner, and at such time, as shall be prescribed under regulations issued by the Attorney General.

(b) Every alien who is granted the status of permanent resident by virtue of law or by Immigration Board order and children of U.S. nationals born in foreign countries, upon registration and photographing shall be issued a certificate of alien registration receipt card for a period of time not to exceed three (3) years from the date of issuance, in such form and manner as may be prescribed under rules of regulations promulgated by the Attorney General.

History: 1984, PL 18-52 § 2; amd 1990, PL 21-32.

41.0310 Certificate-Personal possession required.

(a) Every alien 18 years of age and over shall at all times carry with him and have in his personal possession any certificate of alien registration receipt card issued to him pursuant to this chapter.

(b) Any alien who fails to comply with this section shall be guilty of a class B misdemeanor.

(c) If after a hearing the Board finds a violation of this section, the alien shall also be subject to deportation or imposition of a fine up to \$500.

History: 1984, PL 18-52 § 2; amd 1988, PL 20-56.

41.0311 Willful failure to apply for registration or photographing-Penalty.

(a) Any alien required to apply for registration and photographing in American Samoa who willfully fails or refuses to make such application or to be photographed, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien, shall be guilty of class A misdemeanor.

(b) If after a hearing the Board finds a violation of this section, the alien shall also be subject to deportation or imposition of a fine up to \$1,000.

History: 1984, PL 18-52 § 2; amd 1988, PL 20-56.

41.0312 Failure to give notice of address or change of address-Penalty.

(a) Any alien, and any parent or legal guardian in American Samoa of an alien, who fails to give written notice to the Attorney General as required by 41.0308 shall be guilty of a class C misdemeanor. Irrespective of whether an alien has paid the penalty provided by this section he shall be taken into custody and deported in the manner provided by law unless such alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

(b) If after a hearing the Board finds a violation of this section, in addition to deportation the alien may be fined up to \$1,000.

History: 1984, PL 18-52 § 2; amd 1988, PL 20-56.

Case Notes:

Alien who willfully fails to report a change of address to the immigration authorities is subject to deportation. A.S.C.A. § 41.0312. *Rakhshan v. Immigration Board*, 15 A.S.R. 2d 29 (1990).

41.0313 False statements and fraud-Penalty.

(a) Any person, and any parent or legal guardian of any person, who files an application for registration containing a statement known by him to be false, or who procures or attempts to procure registration of himself or another person through fraud, shall be guilty of a class A misdemeanor.

(b) Any alien convicted under this section shall, upon the issuance of a warrant, be taken into custody and deported in the manner provided by law.

History: 1984, PL 18-52 § 2.

Case Notes:

Alien who makes statements he knows are false in an immigration application is subject to deportation. A.S.C.A. § 41.0313. *Rakhshan v. Immigration Board*, 15 A.S.R.2d 29 (1990).

41.0314 Counterfeiting-Penalty.

Any person who knowingly photographs, prints or in any other manner makes or executes any engraving, photograph, print or impression in the likeness of any certificate of alien registration receipt card, or any colorable imitation thereof, except when and as authorized under such rules as may be prescribed by the Attorney General, shall be guilty of a class D felony.

History: 1984, PL 18-52 § 2.

41.0315 Identification card fees.

(a) The Immigration Office, within the Department of Legal Affairs, may charge certain fees in connection with applications, permits, cards and other general requirements under this title. Fees shall be submitted with any applicable formal applications or petitions prescribed in this chapter and shall be in the amount prescribed by law or rule.

(b) The Immigration Office may charge a fee for the issuance or renewal of identification cards. Such fees shall be known as “identification card fees.”

(c) A fifty percent (50%) setoff shall be established from identification card fees. Whenever an identification card fee is assessed, the fifty percent (50%) setoff shall be segregated into a separate account designated “ASG IMMIGRATION UPGRADE ACCOUNT,” which shall be administered by the Attorney General in conjunction with the Treasurer of American Samoa in accordance with Title 4, Chapter 05 of this code.

(d) Revenue deposited in the ASG Immigration Upgrade Account shall be expended solely for the purchase, maintenance or upgrade of the Immigration Office computer systems to include software, hardware and general office supplies or vehicles. Any revenues not expended for the foregoing purposes may be used for general purchases, equipment and supplies for the Office of the Attorney General.

(e) In no event shall the account exceed a total deposit amount of \$50,000 annually. All revenues generated in excess of this annual amount shall be deposited in the general fund.

(f) For purposes of planning, in no event shall the account exceed a maximum total deposit amount of \$150,000 for any three-year period, in accordance with the annual ceiling listed in (e) above.

(g) The revenue generated from the setoff created in (c) above is hereby appropriated by the Legislature to the Department of Legal Affairs subject to the provisions contained herein.

History: 2005, PL 29-11.

Chapter 04

IMMIGRATION-STATUS

Sections:

- 41.0401 Exclusion of persons not Nationals of the United States.**
- 41.0402 American Samoans entitled to permanent residence.**
- 41.0403 Persons entitled to apply for permanent resident status.**
- 41.0404 Application for permanent residence.**
- 41.0405 Loss of permanent residence status.**
- 41.0406 Rights-Adopted children.**
- 41.0407 Loss of status upon which entry or stay was based.**
- 41.0408 Sponsors for persons permitted to remain.**
- 41.0409 Foreign investor entry permits.**
- 41.0410 Employment of aliens-Penalty.**

41.0401 Exclusion of persons not Nationals of the United States.

(a) The Immigration Board is authorized to exclude any person who does not qualify as a National of the United States, or as a spouse or child of an American Samoan, unless the person establishes to the satisfaction of the Board that:

- (1) he is of good moral character;
- (2) he offers a skill or expertise not readily available in the American Samoan community and the skill or expertise is needed in American Samoa;
- (3) an alien has a local sponsor as required by this title and the rules of the Board;

(4) he will not become a financial burden on any Samoan family or the Government; and

(5) he is not excludable nor deportable under chapter 06 of this title.

(b) Notwithstanding subsection (a), the Board is authorized to allow cultural and family interchanges between persons in American Samoa and Western Samoa, on such terms and conditions as the Board shall determine necessary, and within the numerical limitations of chapter 03.

History: 1984, PL 18-52 § 2.

Case Notes:

Person who loses the status on which his permit to enter the Territory was based is presumed not to be entitled to remain, and may rebut such presumption only by showing that he is of good character, has a local sponsor, is not likely to be a financial burden on Samoa, and offers a needed skill or expertise not readily available in American Samoa. A.S.C.A. § 41.0401. *Rakhshan v. Immigration Board*, 15 A.S.R.2d 29 (1990).

41.0402 American Samoans entitled to permanent residence.

(a) All American Samoans are entitled to permanent residence in American Samoa.

(b) Any person, who established American Samoa as his permanent residence on or before 1 January 1950, and his spouse and children, are entitled to permanent residence in American Samoa, provided they have continuously resided in American Samoa since said date.

History: 1984, PL 18-52 § 2.

41.0403 Persons entitled to apply for permanent resident status.

(a) The following persons shall be entitled to apply for permanent resident status:

(1) any person who is physically and legally present in American Samoa for a continuous period of at least 20 years and of good moral character; “continuous period” means uninterrupted residence in American Samoa except for periods not to exceed 3 consecutive months;

(2) any person who at the time of being legally adopted by an American Samoan was 21 years of age or younger: except that any person legally adopted by an American Samoan prior to 31 December 1980, shall be entitled to apply;

(3) any person who has been legally married to an American Samoan or a United States citizen, and has resided in American Samoa, for at least 10 years;

(4) any person who meets the criteria contained in section 41.0303(a)(1) and (a)(6) and who has resided in American Samoa for at least 10 years.

(b) The number of persons who may be granted the status of permanent resident in any fiscal year shall not exceed 100. There shall be no numerical limitation to the number of persons who may be granted the status of permanent resident under subparagraphs (a)(2), (a)(3) and (a)(4).

(c) Except when authorized by the Attorney General, no alien who has failed to register pursuant to this title is entitled to apply for permanent resident status.

(d) Notwithstanding subparagraph (b) above, all applications filed for permanent resident status before December 31, 2015, shall not be subject to any numerical limitations and may be reviewed by the Attorney General and approved or denied.

History: 1984, PL 18-52 § 2; 2002, PL 27-28; amd 2016, PL 34-16 § 1.

41.0404 Application for permanent residence.

(a) Each person other than American Samoans desiring permanent residence status must file an application with the Attorney General on forms prescribed by the Attorney General.

(b) The Attorney General shall review all applications for permanent residence in order of date of application filed pursuant to this section and shall hold such hearings as necessary for determination of any issue presented by any application.

(c) Upon being satisfied that the applicant is entitled to permanent residence status, the Attorney General shall issue a certification that the applicant is a permanent resident of American Samoa.

History: 1984, PL 18-52 § 2; 2002, PL 27-28.

41.0405 Loss of permanent resident status.

(a) Permanent residents may lose their status if they reside outside American Samoa for a period in excess of 6 months without authorization from the Attorney General.

(b) The Attorney General may revoke the permanent resident status of any non-American Samoan permanent resident if that person is:

(1) a convicted felon;

(2) a person who has been convicted of 2 or more crimes regardless of whether the conviction was in a single trial or whether the offense has arisen from a single scheme or misconduct and regardless of whether the offense involves moral turpitude;

(3) a person who has been convicted of a crime involving moral turpitude or admits committing acts which constitute the essential elements of such a crime: except a person who has committed one such crime while under the age of 18 years, unless the crime resulted in confinement in a prison or correctional institution; and

(4) a person who:

(A) is a prostitute;

(B) has engaged in prostitution;

(C) directly or indirectly procures, attempts to procure, or has attempted to procure or import persons for the purpose of prostitution or for any other immoral sexual purpose;

(D) is or has been supported by, or has received in whole or in part, the proceeds of prostitution; or

(E) is engaging in any other unlawful commercial vice whether or not it relates to prostitution.

History: 1984, PL 18-52 § 2; 2002, PL 27-28.

41.0406 Rights-Adopted children.

(a) Children legally adopted by American Samoans shall have the same rights as American Samoans under the immigration laws, provided:

(1) the child was lawfully admitted and is residing in American Samoa with his adopted parent or parents; and

(2) the child is 12 years of age or younger at the time of adoption and has been living with its adopted parents for 5 years.

(b) Any other adopted persons must apply to the Board for permission to remain.

History: 1984, PL 18-52 § 2.

41.0407 Loss of status upon which entry or stay was based.

(a) When any person ceases to hold the professional, business, employment, matrimonial or other status which entitled him under the provisions of this title or the rules of the Board to enter or remain in American Samoa, he shall for the purposes of this title, be deemed to be a person seeking to enter American Samoa from the date when he ceases to hold such status.

(b) If the person has not notified the Attorney General within 15 days of his change of status, his presence and the presence of his family and dependents in American Samoa shall become unlawful.

History: 1984, PL 18-52 § 2.

Case Notes:

When a person loses the status which entitled him to enter or remain in the territory, he has no further right to remain indefinitely. A.S.C.A. § 41.0407. *Rakhshan v. Immigration Board* (Mem.), 13 A.S.R.2d 25 (1989).

41.0408 Sponsors of persons permitted to remain.

(a) Every person who applies for permission from the Board to remain in American Samoa is required to have a sponsor.

(b) The following persons are eligible to act as sponsor:

(1) all American Samoans, and nationals of the United States;

(2) any corporation authorized under A.S.C.A. Title 30 to do business in American Samoa and certified by the Attorney General to sponsor aliens pursuant to the following general requirements: established record of financial responsibility, proof of timely payment of local taxes, fees and other government assessments, proof of established business plan for operations in American Samoa, and good corporate citizenship. These general requirements may be expanded or elaborated upon from time to time through the promulgation of regulations by the Attorney General.

(3) Notwithstanding the provisions of subsection (b)(2) above, no corporation may sponsor an alien who has any control or interest in any corporation in American Samoa. Such persons who are deemed to have control or interest in a corporation shall include but not be limited to alien: incorporators, investors, shareholders, directors and officers of any corporation incorporated under the laws of American Samoa.

(c) Persons sponsoring aliens for domestic purposes shall comply with the following requirements:

(1) Persons may be sponsored for the purpose of domestic work, including agricultural labor, provided the Board is satisfied of the need for the domestic help and of the lack of permanent residents for such employment and the person is within the numerical limitations established in chapter 03. No person may sponsor more than one person for domestic work unless it is clearly established to the satisfaction of the Board that more than one domestic worker is necessary by reason of age or infirmity of the sponsor or a member of his family, and no person may sponsor more than one person for agricultural work unless the Board is satisfied that the sponsor needs the additional workers and can afford their care in all ways while they are in American Samoa;

(2) Where a person sponsors more than one alien for domestic or agricultural work without approval of the Board gained after satisfaction of the foregoing criteria, the additional aliens shall be subject to termination of sponsorship and deportation from the territory;

(3) All aliens sponsored for domestic or agricultural purposes shall reside with their sponsors. Failure to comply shall be grounds for termination of sponsorship and deportation.

(d) Persons may be sponsored for purposes of other employment provided the Board is satisfied of the need and of the lack of permanent residents for such employment, and the person is within the numerical limitations established in chapter 03. The Board furthermore shall have the right to limit the number of aliens sponsored for other employment by a sponsor as dictated by the circumstances.

(e) A sponsor shall be responsible for all medical bills, taxes, transportation, to the alien's native country, educational costs, legal expense of the public defender, and other public debts of the alien and dependents.

(f) Any person sponsoring another must reside in American Samoa during the period of sponsorship. Should it appear to the Board that the sponsor has departed from American Samoa for an indefinite period of time, the person sponsored may have his permission to remain revoked. A sponsor shall lose his authority to sponsor a person if he fails to pay all costs as established by (e) above, or if he resides outside American Samoa in excess of 3 consecutive months.

(g) A sponsor may revoke his sponsorship or terminate the employment of any person sponsored by giving written notice to the Board and to the person sponsored.

(h) Unless otherwise noted, persons who are in American Samoa and are sponsored shall have the right to remain in American Samoa for up to 20 days following revocation of sponsorship or termination of employment; the Board may order deportation in less than ten days for cause pursuant to chapter 06. The sponsor's obligations under subsection (e) above shall continue during this period.

(i) Persons who are in American Samoa and subjected to domestic or family violence by his or her sponsor or that sponsor's household or family members shall have the right to remain in American Samoa for up to 45 days following revocation of sponsorship or termination of employment. To qualify as someone "subjected to domestic or family violence" the court must make a specific finding as such.

(j) Should an alien have a case pending against his or her sponsor, the alien may remain in American Samoa until a judgment has been reached in his or her case.

History: 1984, PL 18-52 § 2; amd 1988 PL 20-56; amd 2004, PL 28-16; amd 2015, PL 34-2.

Case Notes:

Alien whose sponsor had moved out of the territory was left without a sponsor and would appear to have had the right to remain in the territory for only ten days. A.S.C.A. § 41.0408(I). *Rakhshan v. Immigration Board* (Mem.), 13 A.S.R.2d 25 (1989).

Although the Immigration Board may revoke a sponsorship without a sponsor's permission, no statutory provision requires it to approve a sponsorship's termination or give it the power to impose conditions on a sponsorship's termination. A.S.C.A. § 41.0408(f), (g). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

Because a sponsor need not give the reasons for revoking a sponsorship, aliens facing deportation are not entitled to access to the Immigration Board's confidential documents in order to determine if the sponsorship was revoked for the "wrong reasons." A.S.C.A. § 41.0408(g). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

41.0409 Foreign investor entry permits.

(a) The Attorney General or his designee, at his discretion, may issue to individual applicants for a certificate of foreign investment pursuant to section 27.2301 et seq., special entry permits. These permits allow unrestricted access into and departure from

the Territory for a period of time set by the Attorney General of his designee not to exceed one year per permit.

(b) The special entry permit vests no rights in the holder to establish or attempt to establish citizenship, nationality or permanent residence in the Territory.

Applicants shall apply to the immigration office for issuance of the special entry permit and must provide proof or prior submission of or intent to immediately submit an application for a certificate of foreign investment pursuant to section 27.2601 et seq. The applicant must leave on the date of expiration of the entry permit and re-apply for a new entry permit. In no case may an entry permit extend more than 25 days beyond the calendar date of the statutory deadline for the final decision of the director on the application for a certificate of foreign investment.

(c) Any entry permit may include the spouse of an applicant and not more than 2 other persons whose skills or knowledge is necessary to the enterprise.

(d) Permits authorized under this section shall not be issued to applicants after the date of approval of a certificate of foreign investment. Persons must apply for permits for residence pursuant to the provisions of section 41.0801 et seq.

History: 1988, PL 20-56; amd 1991, PL 22-11.

41.0410 Employment of aliens-Penalty.

(a) No person may knowingly employ any alien without written approval of the Board before the person commences work.

(b) No alien may seek employment or become employed without prior written approval of the Board.

(c) If after a hearing the Board finds that any person has been guilty of a violation of subsection (a), or (b), he/she shall be subject to a fine as follows:

(1) first offense, \$500 per person employed illegally; \$1,000 per person employing a person illegally;

(2) second offense, \$1,000 per person employed illegally; \$3,000 per person employing a person illegally;

(3) third or more offenses, \$2,000 per person employed illegally; \$6,000 per person employing a person illegally.

(d) The fines levied by the Board pursuant to subsection (c) shall be paid to the treasurer of American Samoa.

(e) Any employee violating this section on the first offense is guilty of a class B misdemeanor, and on the second or more offenses is guilty of a class A misdemeanor.

(f) Any employer violating this section is guilty of a class A misdemeanor.

(g) Violation of this section by aliens shall be a deportable offense in addition to fines.

(h) Subsections (a) and (b) of this section shall not apply to guest workers who are admitted and are employed under the provisions of chapter 09 of this Title.

History: 1984, PL 18-5 2 § 2; 2007, PL 30-7.

Chapter 05

ENTRY AND DEPARTURE

Sections:

41.0501 Ports of entry.

41.0502 Entry requirements.

- 41.0503 List of passengers and bill of health required.**
- 41.0504 Advance notice of arrival required.**
- 41.0505 Payment of government personnel after working hours.**
- 41.0506 Discharge of crewman.**
- 41.0507 Inspection of persons seeking entry.**
- 41.0508 Temporary removal of persons upon arrival.**
- 41.0509 Oaths, and taking of evidence regarding entry.**
- 41.0510 Arrest without a warrant.**
- 41.0511 Boarding and searching of vessels and aircraft without a warrant.**
- 41.0512 Search, without a warrant, of persons and their personal effects.**
- 41.0513 Departure clearance.**
- 41.0514 Violation of 41.0503 to 41.0505-Penalty.**

41.0501 Ports of entry.

(a) No person may enter American Samoa from any place outside American Samoa except at a port of entry.

(b) Although the only authorized ports of entry into American Samoa are the port facilities at Fagatogo, and the Pago Pago International Airport, the Board may designate other ports of entry, as necessary, between legislative sessions, provided the ports of entry are submitted for approval at the next session of the Legislature.

History: 1984, PL 18-52 § 2.

41.0502 Entry requirements.

(a) No person may enter American Samoa unless he complies with the following requirements:

(1) A national of the United States shall have a valid passport, travel document, or a certified birth certificate to demonstrate citizenship and have in his possession either:

(A) a round trip ticket to his point of origin or onward passage to a destination beyond American Samoa;

(B) proof of employment and assignment to American Samoa.

(2) Military personnel and their dependents must have valid military identification cards, official military orders or leave authorization form from their respective branch of the United States Military.

(3) A tourist or business person must:

(A) have in his possession a valid passport or other travel document issued by competent authority authorizing him to return to the country from which he came or to enter some other country: the passport or travel document should be valid at the time of entry, and should contain either a photograph or fingerprint of the holder;

(B) have in his possession a round-trip ticket to his point of origin or onward passage to a destination beyond American Samoa;

(C) comply with any current requirements of the public health officer;

(D) a tourist or business person may stay up to 30 days and with approval of the Attorney General or his designee may stay an additional 30 days; however, the filing of an application for an alien registration card pursuant to 41.0303 shall not entitle an alien arriving in American Samoa under subsection (D) to extensions of stay beyond 60 days after original entry into the Territory.

(4) All permanent residents of American Samoa, except members of the armed forces, must present proof of residence at the time of entry in such forms and in such manner as

prescribed by the Board. Permanent residents who are members of the U.S. armed forces must have valid military identification documents with a certification by the military authority concerned that American Samoa is the home of record.

(5) All members of a crew of a vessel or aircraft in transit as certified by their employer may remain in American Samoa and must carry sufficient identification, so long as they remain a member of the crew, otherwise they must meet the other requirements of this section as applicable. Alien crew members that have terminated employment with their vessel or aircraft must depart the Territory for their countries of origin or otherwise.

(6) All government employees and their dependents must furnish proof of government employment and assignment to American Samoa.

(7) All other persons must furnish such documents as required by the Board unless otherwise provided herein.

(b) The Board may by regulation create such additional requirements for any of the categories set forth in subsection (a) as it finds necessary for the administration of this chapter.

(c) All persons are required to comply with the requirements of this chapter within 24 hours after arrival.

(d) All aliens must have valid identification with them at all times.

History: 1984, PL 18-52 § 2; amd 1988, PL 20-56; amd 2006, PL 29-23.

41.0503 List of passengers and bill of health required.

The master or pilot of every vessel or plane arriving in American Samoa from a port outside of American Samoa shall, upon demand of the Attorney General or the public health officer, furnish a list of passengers aboard, together with the bill of health.

History: 1984, PL 18-52 § 2.

41.0504 Advance notice of arrival required.

The agent or owner of any ship other than aircraft due to arrive in American Samoa shall give to the Immigration Office at least 24 hours advance notice of arrival.

History: 1984, PL 18-52 § 2.

41.0505 Payment of government personnel working after hours.

Any vessel or aircraft arriving or departing before or after the normal hours as established by the Attorney General shall pay for the service of all government officers required to clear the vessel or aircraft.

History: 1984, PL 18-52 § 2; 2003, PL 28-7.

41.0506 Discharge of crewman.

No person, including the owner, agent, charterer, master or commanding officer of any vessel or aircraft, may pay off or discharge any non-American Samoan crewman employed on Board a vessel or aircraft arriving in American Samoa without first having obtained consent of the Attorney General in writing.

History: 1984, PL 18-52 § 2.

41.0507 Inspection of persons seeking entry.

(a) The inspection, other than the physical and mental examination, of persons seeking admission or readmission to or the privilege of passing through American Samoa shall be conducted by the Attorney General or his designee and any immigration officer, except as otherwise provided herein. All persons arriving at ports of American Samoa shall be inspected by one or more immigration officers at the discretion of the Attorney General and under such rules as he may prescribe.

(b) Any person whose right to enter or remain in American Samoa is in question may be required to deposit his passport or travel documents upon the inspecting officer's request, and the officer may retain the passport or travel documents until the person leaves American Samoa.

(c) Any immigration officer authorized under regulations prescribed by the Attorney General shall have power without warrant to interrogate any person believed on reasonable suspicion based on articulable facts to be an alien as to his right to be or to remain in American Samoa.

History: 1984, PL 18-52 § 2.

41.0508 Temporary removal of persons upon arrival.

(a) Upon the arrival, at a port in American Samoa, of any vessel or aircraft transporting persons, the immigration officers may order a temporary removal of those persons for examination and inspection at a designated time and place to ascertain if those persons belong to any classes excluded by this Title. The temporary removal may not be considered a landing, relieve the owner of the vessel or aircraft from any obligation under this chapter which would bind the owner if the persons remained on Board.

(b) So long as the removal lasts, the owner of the vessel or aircraft shall be relieved from responsibility for the safety of the persons removed. The owner may, however, with the approval of the Attorney General, assume responsibility for the safety and well being of persons removed if he guarantees the removal to a designated place for examination and inspection. When this occurs, the removal need not be made by an immigration officer.

(c) The owner of the vessel, aircraft or transportation line shall pay all expenses of the removal to a designed place for examination and inspection. He shall also pay all expenses arising during any subsequent detention, pending a decision on the person's eligibility to enter American Samoa and until the person is either allowed to land or to return to the care of the transportation line or to the vessel or aircraft which brought him. The expenses shall include maintenance, medical treatment in a hospital or elsewhere, burial in the event of death, and transfer to a vessel, aircraft or transportation line for deportation.

(d) No expenses incident to detention may be assessed against the owner of the vessel, aircraft or transportation line in the case of any person who arrived in possession of a valid entry permit and who is finally admitted to stay in American Samoa after the detention.

History: 1984, PL 18-52 § 2.

41.0509 Oaths, and taking of evidence, regarding entry.

(a) The Attorney General and any immigration officer may administer oaths and take and consider evidence of or from any person concerning the privilege of any person he believes or suspects to be seeking to enter, pass through or reside in American Samoa, or concerning any matter which is material and relevant to the enforcement of this chapter, and, where action may be necessary, to make a written record of the evidence.

(b) Any person coming into American Samoa may be required to state under oath at any time the purpose or purposes for which he comes, the length of time he intends to remain in American Samoa, whether or not he intends to remain in American Samoa permanently, and any other items of information that will aid in determining whether he is entitled to remain in American Samoa.

History: 1984, PL 18-52 § 2.

41.0510 Arrest without a warrant.

(a) Any immigration officer shall have power without warrant to interrogate any alien or person believed to be an alien as to his right to be or to remain in American Samoa.

(b) Any immigration officer may arrest without a warrant any alien who in his presence or view is entering or attempting to enter American Samoa in violation of any law or regulation made in pursuance of law regulating the admission, exclusion or expulsion of aliens, and may arrest any alien in American Samoa if he has reason to believe that the alien is in American Samoa in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest.

(c) The person making the arrest without a warrant in accordance with this section shall immediately thereafter make an affidavit and apply to a member of the Board for an order of arrest and commitment, until the Board's next meeting, of the person under arrest.

History: 1984, PL 18-5 2 § 2.

41.0511 Boarding and searching of vessels and aircraft without a warrant.

Any immigration officer may, without a warrant, board any vessel within the Territorial waters of American Samoa and search for aliens. He may also, without a warrant, board any aircraft for the same purpose.

History: 1984, PL 18-52 § 2.

41.0512 Search, without a warrant, of persons and their personal effects.

Any officer or inspector of the immigration division authorized and designated under regulations prescribed by the Attorney General may conduct a search, without a warrant, of any person, and of the personal effects in the possession of any person seeking admission to American Samoa if the officer or inspector has reasonable cause to believe that grounds for exclusion under this chapter exist and would be disclosed by the search.

History: 1984, PL 18-52 § 2.

41.0513 Departure clearance.

(a) All persons departing from American Samoa may be required to obtain clearances from the Treasurer of American Samoa and the Chief of Police prior to being allowed to board any aircraft or vessel.

(b) The Treasurer may grant a clearance only after payment of any indebtedness to the Government of that person, his spouse or children, and the Chief of Police may grant a clearance only after he is satisfied that the person is not charged with a crime or awaiting sentencing for conviction of a crime.

(c) If a person attempts to depart from American Samoa without the clearance required by this section, he may be taken into custody by an immigration officer or a police officer.

(d) As used in this section, “departing” does not mean leaving American Samoa temporarily to attend a wedding, funeral or convention, or to take a vacation. The burden of establishing that one of the above is the reason for leaving shall rest on the person leaving.

History: 1984, PL 18-52 § 2.

41.0514 Violation of 41.0503 to 41.0505-Penalty.

Any person violating 41.0503 to 41.0505 shall be sentenced as for an infraction.

History: 1984, PL 18-52 § 2.

Chapter 06

DEPORTATION

Sections:

- 41.0601 Voluntary departure.**
- 41.0602 Immediate deportation-Exception.**
- 41.0603 Persons responsible for expenses.**
- 41.0604 Responsibilities of vessel and aircraft owners.**
- 41.0605 Deportation hearing.**
- 41.0606 Failure to attend proceedings.**
- 41.0607 Proceedings before the Board.**
- 41.0608 Presentation of evidence.**
- 41.0609 Filing of decision.**
- 41.0610 Arrest-Detention-Release.**
- 41.0611 Revocation of bond or parole.**
- 41.0612 Custody of deportees.**
- 41.0613 Reentry by deportees.**
- 41.0614 Procedure exclusive.**
- 41.0615 Excludable persons.**
- 41.0616 General classes of deportable aliens.**
- 41.0617 Hardship cases.**

41.0601 Voluntary departure.

Deportation proceedings, including the issuance of a warrant of arrest and a finding of deportability under 41.0601 through 41.0617, are not required in the case of any person who admits being deportable because he has remained beyond the time allowed under this title or granted by the Board if that person voluntarily departs from American Samoa at his own expense.

History: 1984, PL 18-52 § 2.

41.0602 Immediate deportation when-Exception.

Any person leaving in American Samoa who is excluded under this title by virtue of failing to have the necessary entry documents as required by 41.0502 shall be immediately deported to the place from where he came, in accommodations of the same class in which he arrived, on the vessel or aircraft bringing him unless the Attorney General, in an individual case, in his discretion, concludes that immediate deportation is not practicable or proper. Any person violating this section shall be sentenced as for an infraction.

History: 1984, PL 18-52 § 2.

41.0603 Persons responsible for expenses.

(a) The cost of the maintenance, including detention expenses and expenses incident to detention, as well as the transportation expense of deportation from American Samoa, shall be borne by the owner or owners of the vessel or aircraft on which the deported person arrived.

(b) If the vessel or aircraft in which the person arrived has left American Samoa and it is impracticable to deport him within a reasonable time by another vessel or aircraft owned by the same person or company, the costs of deportation may be paid by the government and the owner shall be responsible for reimbursement.

History: 1984, PL 18-52 § 2.

41.0604 Responsibilities of vessel and aircraft owners.

(a) The owner of any vessel or aircraft may not:

(1) refuse to receive any person ordered deported under this chapter back on Board the vessel or aircraft or another vessel or aircraft owned or operated by the same interests;

(2) fail to detain any person on Board the vessel or aircraft when required by this title to do so;

(3) fail or refuse to pay the costs of maintaining a person being detained as required by this chapter;

(4) fail or refuse to remove a deported person from American Samoa to whence he came;

(5) knowingly bring into American Samoa any person excluded or deported under any provision of law until that person is legally entitled to apply for admission.

(b) It shall be the duty of every person, including the owners, masters, captains, officers, and agents of vessels or aircraft bringing an alien to, or providing a means for an alien to come to, American Samoa to prevent the landing of such alien in American Samoa at a point of entry other than as designated by the Attorney General or at any time or place other than as designated by the immigration officers.

(c) It shall be the duty of every person, including the owners, masters, captains, officers, and agents of vessels or aircraft bringing an alien to, or providing a means for an alien to come to, American Samoa to prevent the landing of such person in American Samoa without the required documents listed in 41.0502 A.S.C.A., unless otherwise relieved of such duty in writing by the Attorney General.

(d) Any such person, owner, master, captain, officer or agent who fails to comply with the foregoing requirements shall be liable for a penalty to be imposed by the Attorney General of up to \$1,000 for each such violation. Such penalty shall be a lien upon the

vessel or aircraft whose owner, master, officer, or agent violates the provisions of this section, and such vessel or aircraft may be libeled therefor in the High Court of American Samoa.

History: 1984, PL 18-52 § 2; amd 1987, PL 20-18 § 1.

Amendments: 1987 Subsections (b), (c) and (d): added.

41.0605 Deportation hearing.

The Board shall conduct proceedings under this chapter to determine the deportability of any person. Determination of deportability shall be made only upon a record made in a proceeding before the Board and the person shall have a reasonable opportunity to be present unless by reason of the person's incompetency it is impractical for him to be present; in which case the Board shall prescribe the necessary and proper safeguards for his rights and privileges.

History: 1984, PL 18-52 § 2.

41.0606 Failure to attend proceedings.

If any person has been given a reasonable opportunity to be present at a proceeding under this chapter and without reasonable cause fails or refuses to attend or to remain in attendance, the Board may proceed to a determination in a like manner as if the person were present.

History: 1984, PL 18-52 § 2.

41.0607 Proceedings before the Board.

(a) Proceedings before the Board shall be in accordance with such rules, not inconsistent with this title, as the Board shall prescribe. The rules shall include requirements that:

(1) the person be given such notice as is reasonable under all the circumstances of the nature of the charges, against him and the time and place of the proceedings;

(2) the person have the privilege of being represented by such counsel as he shall choose;

(3) the person have a reasonable opportunity to examine the evidence against him, present evidence on his own behalf and cross-examine witnesses; and

(4) no decision of deportability be valid unless it is based upon reasonable, substantial and appropriate evidence.

(b) The Board need not adhere to strict rules of evidence.

History: 1984, PL 18-52 § 2.

Case Notes:

Aliens facing deportation hearings are to be given notice which is "reasonable under the circumstances." A.S.C.A. §§ 41.0205(7)(a), 41.0607(a)(1). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

The Immigration Board's merely announcing a sponsorship's termination fails to meet the notice requirements for a deportation hearing, as the notice must include the time and place of the hearing. A.S.C.A. §§ 41.0205(7)(a), 41.0607(a)(1). *Farapo v. American Samoa Government*, 23 A.S.R.2d 136 (1993).

41.0608 Presentation of evidence.

When the Board believes it will aid in making a determination, it may request the Attorney General or require specifically or by regulation that some person be assigned to present the evidence on behalf of the government and that person may then present evidence, interrogate, examine and cross-examine the parties or witnesses in the proceedings.

History: 1984, PL 18-52 § 2.

41.0609 Filing of decision.

When a person is ordered deported under this chapter, the decision of the Board shall be filed in such manner as the Board may by rule prescribe.

History: 1984, PL 18-52 § 2.

41.0610 Arrest-Detention-Release.

(a) Pending a determination of any person's deportability, the Attorney General may order his arrest and detention.

(b) Any person taken into custody may, in the discretion of the Attorney General, pending a final determination of deportability:

(1) be continued in custody;

(2) be released under a bond for an amount not less than the cost of one-way transportation to the country, from where he came plus \$100, with security approved by the Attorney General, and containing such conditions as the Attorney General may prescribe;

(3) be released on conditional parole.

History: 1984, PL 18-52 § 2.

41.0611 Revocation of bond or parole.

The bond or parole may be revoked at any time by the Attorney General in his discretion and the person returned into custody under the warrant which initiated the proceedings against him and detained until final determination of the deportability.

History: 1984, PL 18-52 § 2.

41.0612 Custody of deportees.

All persons ordered deported by the Board shall be deemed to be in the custody of the Chief of Police of American Samoa from and after the finding by the Board and may be detained by the Attorney General pursuant to 41.0610.

History: 1984, PL 18-52 § 2.

41.0613 Reentry by deportees.

(a) Any person ordered deported by the Board for remaining in American Samoa beyond the time allowed by law or the Board is prohibited from reentering American Samoa for any purpose for one year, and for five years is not eligible under the numerical limitations of chapter 03.

(b) Any person ordered deported for any reason other than set forth in subsection (a) is prohibited from reentering American Samoa for five years, and for ten years is not

eligible under the numerical limitations of chapter 03.

(c) Any person remaining in American Samoa beyond the time allowed by law or the Board who voluntarily departs before a hearing is held by the Board is prohibited from reentering American Samoa for any purpose for one year.

(d) The Board may impose such other conditions on reentry as are warranted by the circumstances of each case.

History: 1984, PL 18-52 § 2.

Case Notes:

Persons deemed deportable under the immigration statute are almost invariably deemed excludable from readmission; but in many circumstances, they be readmitted at the discretion of American Samoa's Immigration Board and Attorney General. A.S.C.A. §§ 41.0613, 41.0615-16, 41.0617. American Samoa Government v. Falefatu, 17 A.S.R.2d 114 (1990).

History: 1984, PL 18-52 § 2.

41.0614 Procedure exclusive.

The procedure prescribed in this chapter shall be the sole and exclusive procedure for determining deportability of any person under this chapter; provided, however, that nothing in this title is intended to deny or restrict the authority of the High Court of American Samoa to require an alien to depart and remain outside of American Samoa during part or all of an otherwise lawful term of probation, pursuant to an otherwise lawful order of civil or criminal commitment.

History: 1984, PL 18-52 § 2; amd 1991, PL 22-1.

Case Notes:

In a criminal case, a court may require a defendant to leave the territory as a condition of probation and may impose other probationary conditions reasonably related to the purposes of probation beyond those conditions enumerated in the statute. A.S.C.A. §§ 41.0614, 46.2205. American Samoa Government v. Salu, 22 A.S.R.2d 48 (1992).

American Samoa's Attorney General has the power to "enforce and administer" the laws pertaining to immigration and the status of aliens, and the statutory procedures are the exclusive method for "determining the deportability of any person." A.S.C.A. §§ 41.01039a), 41.0614. American Samoa Government v. Falefatu, 17 A.S.R.2d 114 (1990).

Filing of a petition for review of an Immigration Board decision does not automatically stay a final order of deportation made by the Board. A.S.C.A. § 41.0646. Leti v. Immigration Board, 8 A.S.R.2d 107 (1988).

41.0615 Excludable persons.

Except as otherwise provided in this title, the following classes of persons not permanent residents are excluded from admission into American Samoa and are subject to deportation:

- (1) mentally retarded persons;
- (2) insane persons;
- (3) persons who have had one or more attacks of insanity;
- (4) persons affected with psychopathic personality, or sexual deviation, or a mental defect;
- (5) narcotic drug addicts and alcoholics;
- (6) persons having any contagious disease;
- (7) persons who are paupers, professional beggars, or vagrants;

- (8) convicted felons;
- (9) persons who have been convicted of 2 or more crimes regardless of whether the conviction was in a single trial or whether the offense has arisen from a single scheme of misconduct and regardless of whether the offense involves moral turpitude;
- (10) persons who have been convicted of a crime involving moral turpitude or admit having committed such a crime, or admit committing acts which constitute the essential elements of such a crime; except persons who have committed only one such crime while under the age of 18 years unless the crime resulted in confinement in a prison or correctional institution;
- (11) persons who are polygamists, practice polygamy or advocate the practice of polygamy;
- (12) persons who:
 - (A) are prostitutes;
 - (B) have engaged in prostitution;
 - (C) are coming into American Samoa solely principally, or incidentally to engage in prostitution;
 - (D) directly or indirectly procure, attempt to procure or have procured. Or have attempted to procure or import persons for the purpose of prostitution or for any other immoral sexual purpose;
 - (E) Are or have been supported by, or have received in whole or in part, the proceeds of prostitution;
 - (F) Are coming into American Samoa and engaging in any other unlawful commercial vice whether or not it relates to prostitution;
- (13) Persons who, in the opinion of the Board at the time of application for admission, are likely at any time to become public charges;
- (14) Persons who have been previously excluded from admission or deported and who again seek admission within the time prohibited by law or regulation of the Board;
- (15) stowaways;
- (16) persons who seek to or have procured a visa or other documentation, or seek to enter the United States or American Samoa, by fraud or by willfully misrepresenting a material fact;
- (17) except as otherwise specifically provided in this title, any person who at the time of entry into American Samoa is not in possession of a valid entry document as required by this title and rules issued by the Board;
- (18) any person accompanying another person ordered to be excluded or deported and certified to be helpless from sickness or mental or physical disability or infancy, whose protection or guardianship is required by the helpless person;
- (19) any person who at any time shall have knowingly and for gain encouraged, induced assisted, abetted or aided any other person to enter or try to enter American Samoa in violation of the law;
- (20) persons who advocate or teach, or are members of or affiliated with any organization that advocates or teaches the overthrow by force, violence or other unconstitutional means, of the Government of the United States or the Government of American Samoa;
- (21) persons who have stayed beyond the time allowed in their entry permit or granted by the Board;
- (22) persons who have violated any provision of this title or regulation of the Board, in addition to any other penalty which may be imposed under any provision of the law;
- (23) any person who has issued against him a valid warrant of arrest issued by

competent legal authority of any country or territory of which the person is a citizen;

(24) persons who are not American Samoans and who have accepted voluntary departure in lieu of deportation, exclusion or arrest or who have been deported or excluded by the United States.

History: 1984, PL 18-52 § 2; amd 1987, PL 20-18 § 2.

Amendments: 1987 Subsection (18): replaced “and” with “or” after “excluded”. Subsection (24): added.

Case Notes:

A person who has been “convicted of a crime involving moral turpitude committed within 5 years after any entry” is deportable; if he were outside the territory, he would be excludable as a convicted felon. A.S.C.A. §§ 41.0615(8), 41.0617(4). *American Samoa Government v. Falefatu*, 17 A.S.R.2d 114 (1990).

Persons deemed deportable under the immigration statute are almost invariably deemed excludable from readmission; but in many circumstances, they be readmitted at the discretion of American Samoa’s Immigration Board and Attorney General. A.S.C.A. §§ 41.0613, 41.0615-16, 41.0617. *American Samoa Government v. Falefatu*, 17 A.S.R.2d 114 (1990)

41.0616 General classes of deportable aliens.

Any aliens in American Samoa, including an alien crewman, shall, upon the order of the Attorney General, be deported, who:

(1) at the time of entry was within one or more of the classes of persons excludable by the law existing at the time of such entry;

(2) entered American Samoa without inspection or at any time or place other than as designated by the Attorney General or this title, or is in American Samoa in violation of this title, or in violation of any other law of American Samoa;

(3) hereafter, within 5 years after any entry, becomes institutionalized at public expense because of mental disease, defect or deficiency unless the person can show that such disease, defect, or deficiency did not exist prior to his admission to American Samoa;

(4) is convicted of a crime involving moral turpitude committed within 5 years after any entry and either sentenced to confinement or confined therefor in a prison or corrective institution, for a year or more, or who at any time after entry is convicted of 2 crimes involving moral turpitude not arising out of a single scheme or criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial;

(5) has failed to comply with the provisions of 41.0308 unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under 41.0311, 41.0312, 41.0313, or 41.0314;

(6) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marijuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marijuana, any salt derivative or preparation of opium or coca leaves or isonipecaine or any addiction-forming or addiction-sustaining opiate;

(7) by reason of any conduct, behavior or activity at any time after entry became a member of any of the classes specified in 41.0615(12); or is or at any time after entry has

been a manager, or is or at any time after entry has been connected with the management, of a house of prostitution or any other immoral place;

(8) at any time, shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other person to enter or to try to enter American Samoa in violation of law;

(9) at any time after entry, shall have been convicted of possessing or carrying in violation of any law any weapon which shoots or is designed to shoot automatically or semi-automatically more than one shot without manual reloading, by a single function of the trigger, or a weapon commonly called a sawed-off shotgun;

(10) at any time within 10 years after entry, shall have been convicted of violating a provision of this title;

(11) at any time after entry, shall have been convicted more than once of violating the provisions of this title;

(12) seeks to procure or has procured a visa or other documentation or seeks to enter or remain in the United States or American Samoa by fraud or by willfully misrepresenting a material fact;

(13) accompanies another person ordered to be excluded or deported and certified to be helpless from sickness or mental or physical disability or infancy, whose protection or guardianship is required by the helpless person;

(14) advocates or teaches, or is a member of or is affiliated with any organization that advocates or teaches the overthrow by force, violence or other unconstitutional means, of the government of the United States or the government of American Samoa;

(15) has stayed beyond the time allowed in his entry permit or granted by the Board;

(16) has violated any provision of this title or regulation of the Board, in addition to any other penalty which may be imposed under any provision of the law;

(17) has issued against him a valid warrant of arrest issued by competent legal authority of any country or territory of which the person is a citizen;

(18) enters for a 30 day visit pursuant to 41.0502 and who is employed without approval or is not within the numerical limitations of chapter 03 of this title;

(19) is fined by the Immigration Board three times or more for being employed illegally pursuant to 41.0409 A.S.C.A.;

(20) at any time shall have, knowingly and for gain encouraged, induced, assisted, abetted or aided any other person to enter or try to enter American Samoa in violation of the law.

History: 1984, PL 18-52 § 2; amd 1987, PL 20-18 § 3.

Amendments: 1987 Subsection (2): added “is” before “in American Samoa”.

Subsections (3) and (4): added “any” before “entry”.

Subsection (7): added “or” between “is” and “at any time”.

Subsection (8): replaced language to make provisions apply “at any time” and replaced “alien” by “person”.

Subsection (10): replaced “5” with “10”.

Subsections (12) through (20): added.

Case Notes:

Alien who requires status or condition which would be grounds for exclusion if present before entry does not automatically become grounds for deportation if acquired after entry. *Sala Falelua v. Immigration Board of American Samoa*, App. No. 2445 (3/11/86).

Under territorial immigration statute, the Immigration Board determines only whether an alien is deportable; the decision actually to deport a deportable alien is within the discretion of the Attorney General. A.S.C.A. § 41.0616. *Keti v. Immigration Board*, 8 A.S.R.2d 107 (1988).

Alien may be deported on the ground of being the object of a valid foreign arrest warrant only when

the warrant is issued by his country of citizenship 15 A.S.R.2d A.S.C.A. § 41.0616(17). *Rakhshan v. Immigration Board*, 15 A.S.R.2d 29 (1990).

Order of deportation must be made by the Attorney General. A.S.C.A. § 41.0616. *Rakhshan v. Immigration Board*, 15 A.S.R.2d 29 (1990).

Criminal convictions are proper grounds for deportation. A.S.C.A. § 41.0616(4), (6), (9), (10), (11), (16); 8 U.S.C. § 1251(a)(5)m (11), (14), (15), (16). *American Samoa Government v. Falefatu*, 17 A.S.R.2d 114 (1990).

Persons deemed deportable under the immigration statute are almost invariably deemed excludable from readmission; but in many circumstances, they be readmitted at the discretion of American Samoa's Immigration Board and Attorney General. A.S.C.A. §§ 41.0613, 41.0615-16, 41.0617. *American Samoa Government v. Falefatu*, 17 A.S.R.2d 114 (1990).

Filing of a petition for review of an Immigration Board decision does not automatically stay a final order of deportation made by the Board. A.S.C.A. § 41.0646. *Leti v. Immigration Board*, 8 A.S.R.2d 107 (1988).

41.0617 Hardship cases.

(a) An excludable or deportable non-American Samoan may be issued permission to remain in American Samoa if it is established to the satisfaction of the Board that he or she is a spouse of a person lawfully admitted for permanent residency, or that he or she is a child (including a minor, unmarried, adopted child) of a person lawfully admitted for permanent residency and that the exclusion of the spouse or child will result in extreme hardship to the lawful resident of his or her spouse, parent, son or daughter and the admission will not be contrary to the safety or security of American Samoa.

(b) The Board may impose such conditions and procedures as it deems advisable or necessary in granting resident status under subsection (a).

History: 1984, PL 18-52 § 2.

Case Notes:

A person who has been "convicted of a crime involving moral turpitude committed within 5 years after any entry" is deportable; if he were outside the territory, he would be excludable as a convicted felon. A.S.C.A. § 41.0615(8), 41.0617(4). *American Samoa Government v. Falefatu*, 17 A.S.R.2d 114 (1990).

American Samoa's Attorney General may have the discretion to allow a deportable or excludable alien to return and/or remain in the territory. A.S.C.A. § 41.0617. *American Samoa Government v. Falefatu*, 17 A.S.R.2d 114 (1990).

Chapter 07

GENERAL PENALTY PROVISION

Sections:

- 41.0701 False or misleading statements.**
- 41.0702 Alteration of permits.**
- 41.0703 Obstructing, resisting or misleading officers.**
- 41.0704 Use or possession of forged, altered, irregular, or other person's document.**
- 41.0705 Harboring or assisting unlawful entrants.**
- 41.0706 Failure to comply with notice.**
- 41.0707 Violations not specifically provided for.**
- 41.0708 Illegal presence.**
- 41.0709 Stowaways.**

41.0701 False or misleading statements.

Any person who, for the purpose of obtaining for himself or for any other person or of

assisting any other person to obtain any permit, exemption or other advantage under this title, or, with intent to deceive any immigration officer, makes any oral declaration or makes or causes or omits to make or cause to be made any statutory declaration, return, statement, application or other writing which he knows or has reasonable cause to believe to be false or misleading, shall upon conviction be guilty of a class A misdemeanor and sentenced accordingly.

History: 1984, PL 18-52 § 2.

41.0702 Alteration of permits.

Any person who, otherwise than with the authority of the Attorney General alters, or knowingly defaces, any permit made under or in pursuance of the provisions of this title or any official or certified copy of any such permit shall upon conviction be guilty of a class A misdemeanor and sentenced accordingly.

History: 1984, PL 18-52 § 2.

41.0703 Obstructing, resisting or misleading officers.

Any person who resists, hinders or obstructs any immigration officer or other person in the lawful execution of his duty or powers under this title, or knowingly misleads or attempts to mislead any immigration officer in relation to any matter material to the performance or exercise by the immigration officer of any duty, function, power or discretion under this title, shall upon conviction be guilty of a class A misdemeanor and sentenced accordingly.

History: 1984, PL 18-52 § 2.

41.0704 Use or possession of forged, altered, irregular, or other person's documents.

Any person who unlawfully uses or without lawful authority has in his possession any forged or unlawfully altered birth certificate, marriage certificate or other document purporting to establish age, status or identity, or knowingly uses or has in his possession any unlawfully issued or otherwise irregular permit or other document issued or purported to have been issued under this title, or uses any certificate, permit or exemption issued to or in respect of any other person as if it had been issued to or in respect of himself, shall upon conviction be guilty of a class C felony and sentenced accordingly.

History: 1984, PL 18-52 § 2.

41.0705 Harboring or assisting unlawful entrants.

Any person who harbors or assists any person whom he knows or has reasonable cause to believe to be a person whose presence in American Samoa is unlawful shall upon conviction be guilty of a class A misdemeanor and sentenced accordingly.

History: 1984, PL 18-52 § 2.

41.0706 Failure to comply with notice.

Any person who refuses or fails to comply with any notice issued to him under the provisions of this title or any rules made hereunder with which he is required by this title

or such rules to comply, shall upon conviction be guilty of a class A misdemeanor and sentenced accordingly.

History: 1984, PL 18-52 § 2.

41.0707 Violations not specifically provided for.

Any person violating any provision of this title the violation of which is not specifically provided for by this title shall upon conviction be guilty of a class B misdemeanor and sentenced accordingly.

History: 1984, PL 18-52 § 2.

41.0708 Illegal presence.

(a) A person commits the crime of illegal presence if he is present in American Samoa knowingly in violation of the immigration laws of American Samoa.

(b) Illegal presence is a class A misdemeanor.

History: 1985, PL 19-14 § 1.

41.0709 Stowaways.

(a) A person commits the crime of stowing away if he conceals himself on Board any vessel or aircraft in order to obtain unauthorized passage from or to American Samoa to or from any other port or place.

(b) Stowing away is a class C felony.

History: 1985, PL 19-14 § 2.

Chapter 08

FOREIGN INVESTORS ENTRY PERMITS

Sections:

41.0801 Definitions.

41.0802 Application-Fees and documentation required.

41.0803 Foreign investor entry permits, issuance, denial, terms.

41.0804 Revocation of foreign investor entry permits.

41.0805 Exclusion from other preference eligibility.

41.0806 Rules and forms.

41.0801 Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(a) “Foreign Investment” means the investment made by a foreign investor in an enterprise in American Samoa pursuant to a certificate of foreign investment issued by the director.

(b) “Foreign Investor” means any natural person without United States nationality or citizenship, or permanently residency in American Samoa, who is approved for and participates in an enterprise project that has been granted a certificate of foreign investment.

(c) “Attorney General” means the Attorney General of American Samoa.

(d) “Director” means the Director of Development Planning.

(f) "Eligible for a foreign investor entry permit" means a foreign investor who has proof that he or she is participating in a foreign investment that has been approved for, or been granted, a certificate of foreign investment.

(g) "Family" means the spouse and not more than two biological dependent children or dependent children by legal adoption, effective one year prior to the date of the application for a foreign investor entry permit, of a person participating in an enterprise for which an application for a certificate of foreign investment has been approved.

History: 1988, PL 20-56; 1988, PL 20-80.

41.0802 Application-Fees and documentation required.

(a) An applicant for a foreign investor entry permit shall provide to the Attorney General:

(1) a non-refundable application fee of \$500 (five hundred U.S. dollars) for an accepted participant in an enterprise granted a certificate of foreign investment, which includes the spouse and two dependent children;

(2) name, present address at both residents and business, and any telephone, telex, or facsimile numbers;

(3) a certified copy of the birth certificate of the applicant, the spouse and dependent children;

(4) a sworn statement of the applicant's educational background and achievements, and employment and business background;

(5) three reference letters of good character from non-relatives;

(6) a certificate of good health of the applicant, his spouse and dependent children;

(7) evidence of present citizenship of the applicant, the spouse and dependent children;

(8) a background report by an acceptable international investigate agency;

(9) a financial report certified by a registered and certified public accounting firm; evidence that applicant has made available or obtained the financing for an investment of at least \$1,000,000 (one million U.S. dollars) for an individual enterprise that has received an approval letter, pursuant to section 27.2608, for a certificate of foreign investment in American Samoa, with such investment already placed in escrow in American Samoa in a designated, suitably insured, financial banking institution; or

(10) evidence that the applicant has already invested at least \$250,000 (two hundred fifty thousand U.S. dollars) in a bona fide corporation or partnership capitalized at no less than \$5,000,000 (five million U.S. dollars) registered in American Samoa with an approval letter for a certificate of foreign investment;

(11) six passport-sized photographs, two of which will be endorsed on the back with the words. "This is a true photograph of (name of applicant)" and signed by the applicant; the same is required of the applicant's spouse and dependent children; and

(12) three original specimens of applicant's signature.

History: 1988, PL 20-56; 1988, PL 20-80 amd 1991, PL 22-11.

41.0803 Foreign investor entry permits-Issuance, denial, terms.

(a) Notwithstanding any other law, the Attorney General or his designee may issue a foreign investor entry permit to any foreign investor, the spouse and two dependent children in his family as defined in section 41.0801(f):

(1) who presents to the Attorney General current proof of participation in an enterprise

granted a certificate of foreign investment; and

(2) who represents a currently valid passport for the investor and any member of the immediate family seeking such permit.

(b) The foreign investor entry permits allow the holders the following rights and privileges: entry and exit, of any frequency or duration, to and from American Samoa. The entry permit shall have no effect other than allowing entry and exit for the purposes of foreign investment and shall not vest in any permit holder any rights to own land, vote, hold elective office, permanent residence, or rights to United States nationality or citizenship.

(c) The foreign investor entry permit shall be valid for one year and shall be renewable each subsequent year as long as the approved enterprise is in operation and all other requirements remain satisfied, subject to revocation upon the conditions specified by law or rule.

(d) The Attorney General or his designed shall review every application and either issue or deny the foreign investor entry permit within 15 days following receipt of a complete application.

(e) In the event the Attorney General or his designee denies the application for a foreign investor entry permit, he shall state and include the reason for the denial in writing in a communication delivered to the applicant. The Attorney General shall additionally notify and instruct the escrow agent or corporation to return to the applicant the full amount of the investor's funds on deposit pursuant to section 41.0802(A)(11) herein.

History: 1988, PL 20-56; 1988, PL 20-80.

41.0804 Revocation of foreign investor entry permits.

(a) Upon written notification from the director that the certificate of foreign investment has been revoked or the foreign investment enterprise has ceased business or has been transferred to new owners who will seek foreign investment entry permits, the Attorney General may revoke the foreign investor entry permits of the holder, the spouse and their dependents, provided, however, that the revocation shall not take effect until six months following the date of the business transfer or revocation of the certificate of foreign investment.

(b) Upon written notice from the Director of the business transfer or revocation of a certificate of foreign investment, the Attorney General shall give written notice of revocation of the foreign investor entry permits to the holders of the certificate of foreign investment and all participants therein.

History: 1988, PL 20-56; 1988, PL 20-80.

41.0805 Exclusion from other preference eligibility.

(a) Every person who enters the Territory under this chapter is excluded from applying for admission under any other preference or for permanent residence, regardless of such person's eligibility for admission, for as long as such person holds or is named on a foreign investment entry permit.

(b) Every person whose foreign investment entry permit expires or is terminated or revoked, must leave the Territory before applying for admission under any other provision of this title.

History: 1988, PL 20-56; 1988, PL 20-80.

41.0806 Rules and forms.

(a) The Attorney General may promulgate rules and prescribe regulations pursuant to the Administrative Procedures Act, 41.1001 et seq., to carry out the provisions of this chapter.

History: 1988, PL 20-56; 1988, PL 20-80.

Chapter 09

GUEST WORKER PERMIT

41.0901 Definitions.

41.0902 Authorization to issue guest worker permit.

41.0903 Requirements for eligibility for guest worker permit.

41.0904 Health certification by guest worker—Penalty.

41.0905 Permit good for one year—Renewal—Fees.

41.0906 No bond or security of any kind necessary for issuance of permit.

41.0907 Requirement for a host in American Samoa—Penalty.

41.0908 No round-trip ticket necessary to enter.

41.0909 Issuance of guest worker permit.

41.0910 Immediate employment—Termination of employment.

41.0911 Authority of the Governor to implement moratorium.

41.0912 Guest worker's family not included in permit—Eligibility for residence status.

41.0913 Amnesty for foreign nationals residing in American Samoa without authorization.

41.0914 No board approval necessary for guest worker permits.

41.0915 Registration forms.

41.0916 Authority to adopt rules.

41.0917 Certificate—Personal possession required.

41.0918 Change of address.

41.0919 Sponsor penalty.

41.0920 Abrogation of relevant laws.

41.0901 Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(a) "Affiant" means a person who attests to, or signs an affidavit.

(b) "Affidavit" means a written statement which is authorized or required by law, attested to or signed by the affiant, and submitted in support of an application for a guest worker permit.

(c) "Guest worker" means a person of Samoan ancestry born in the Independent State of Samoa who is granted authorization to enter and remain in American Samoa for purposes of employment at the fish canneries or call center only, under the provision of this chapter.

(d) "Host" means anyone who is a 21 year old bona fide individual resident or business of American Samoa who can certify by affidavit that he/she/they will provide

housing and lodging facilities, whether free of charge or by rent agreement, for a guest worker during his/her stay in American Samoa.

(e) “Immediate relative” means the children, spouse, siblings and parents of a guest worker.

(f) “Sponsor” means an employer belonging to either of the two current fish canneries or call center doing business in American Samoa requesting a guest worker permit for an individual to enter American Samoa for purposes of employment by those canneries or call center.

History: 2007, PL 30-7.

41.0902 Authorization to issue guest worker permit.

The Attorney General of American Samoa is authorized to issue guest worker permits, subject to the requirements of this chapter, for the purpose of entry of persons of Samoan ancestry born in the Independent State of Samoa into American Samoa for purposes of employment by either of the two canneries or call center.

History: 2007, PL 30-7.

41.0903 Requirements for eligibility for guest worker permit.

Each guest worker for whom a permit is requested must meet all of the following requirements:

(1) Must be at least 19 years old, and no older than 45 years, at the time the application is presented to the Attorney General;

(2) Must be a person of Samoan ancestry born in the Independent State of Samoa;

(3) Must not have been convicted anywhere of any crime, whether a misdemeanor or felony, including civil infractions;

(4) Must possess a certificate from the highest health authority in his/her country of origin that bearer is of good health, fit for work, not pregnant, in cases of females, and free from any sexually transmitted diseases, malaria, filariasis, or any disease that is deemed contagious and capable of being transmitted from one person to another;

(5) Must not have been previously deported or excluded by the American Samoa Immigration Board or Attorney General;

(6) Must not have been ordered by the courts of American Samoa to remain outside the Territory of American Samoa for any amount of time; and

(7) Must comply with the prohibitions of section 41.0615.

History: 2007, PL 30-7.

41.0904 Health certification by guest worker—Penalty.

(a) In addition to the requirement of section 41.0903(4) above, guest worker must provide a signed affidavit, with himself/herself as the affiant, that he/she is of good health, fit for work, not pregnant, in cases of females, and is free from any sexually transmitted disease, malaria, filariasis, or any disease that is deemed contagious and capable of being transmitted from one person to another.

(b) Any guest worker who knowingly presents a false affidavit under this section in order to obtain a guest worker permit, shall be guilty of a class A misdemeanor. The guest worker permit that was issued to said person shall immediately be revoked and he

or she deported without delay. This individual shall not be eligible as a guest worker at any other time in the future.

History: 2007, PL 30-7.

41.0905 Permit good for one year—Renewal—Fees.

(a) Each guest worker permit issued by the Attorney General shall be valid for one year from the date it was issued, and shall entitle the guest worker to multiple entries into American Samoa for the purpose for which it was issued.

(b) Each permit may be renewed for an additional year not to exceed ten consecutive renewals.

(c) Each permit issued for the first time shall be for a fee of \$50.00, paid to the Government of American Samoa by the guest worker or sponsor as provided under regulations promulgated hereunder. Each subsequent renewal shall be for \$30.00.

History: 2007, PL 30-7.

41.0906 No bond or security of any kind necessary for issuance of permit.

For purposes of this chapter, neither the sponsor nor the guest worker applicant shall be required to post a bond, either monetary or otherwise, or post security of any kind as a requirement for the issuance of a guest worker permit. However, the sponsor is responsible for all expenses related to, and necessary for repatriating, to their countries of origin, those guest workers whose employment are terminated, or are deemed deportable or excluded by the Attorney General pursuant to the laws of American Samoa. The sponsor shall be responsible for assuring that provisions are in place to take care of expenses incurred by the guest worker for health or medical services, fees and fines, utilities, and any other expenses or debts of the guest worker.

History: 2007, PL 30-7.

41.0907 Requirement for a host in American Samoa—Penalty.

(a) Each application for a guest worker permit shall be supported by an affidavit from a host stating his/her ability and willingness to provide housing and lodging facilities for a guest worker during his/her stay in American Samoa, and shall declare whether he provides these accommodations free of charge or for a charge.

(b) A host who provides housing and lodging facilities for a charge shall submit with his/her affidavit a copy of his/her business license and rent agreement with the guest worker, stating, among other things, the term of the agreement, the monthly rental payment, the facilities provided, and other such information the Attorney General by regulation may require.

(c) No person may act as host for more than 5 guest workers at one time.

(d) A host or sponsor shall not require from a guest worker, through use of coercion, duress, force or threat of deportation, a portion of his/her wage earnings over and above the agreed upon rental rate, or reasonable household expenses attributed to the guest worker except as provided in this statute.

(e) Anyone who violates subsections (c) above shall be guilty of a class A misdemeanor for the first violation, and a class D felony for every subsequent violation. Anyone who violates subsection (d) above shall be guilty of a class D felony.

(f) Anyone who provides a false affidavit or false information under subsections (a)

and (b) of this section shall be guilty of a class B misdemeanor.

History: 2007, PL 30-7.

41.0908 No round-trip ticket necessary to enter.

Each person who is granted a guest worker permit may enter American Samoa with only a one-way ticket from his point of origin.

History: 2007, PL 30-7.

41.0909 Issuance of guest worker permit.

Guest worker permits may be issued only upon the satisfaction of the following requirements:

(1) That the sponsor presents a completed application for each guest worker to the Attorney General with a certification that it is unable to meet its employment requirements with individuals currently residing in American Samoa, and other information that the Attorney General by regulation may require;

(2) That the Attorney General examines and certifies to the Governor that he/she has reviewed each application, that the requirements of this chapter have been satisfied, and that the employment needs of the sponsor cannot be met with individuals residing in American Samoa;

(3) That the Governor has consented to the issuance of each permit and has reported to the Legislature of American Samoa for its review:

- (A) The number of permits to be issued;
- (B) That he has approved the issuance of such permits; and
- (C) The circumstances under which they are issued.

History: 2007, PL 30-7.

41.0910 Immediate employment—Termination of employment.

(a) Each guest worker who is issued a permit shall be employed by the sponsor within two weeks of arrival after first complying with the employment laws of American Samoa and those of the federal government which are applicable to American Samoa, and shall continue to be employed by sponsor while in American Samoa on a guest worker permit.

(b) The sponsor shall inform the Attorney General one day before it terminates employment of a guest worker, and must make sure that the guest worker departs American Samoa immediately upon termination of services. A guest worker who remains in American Samoa after termination of employment shall be subject to arrest and detention until arrangements are made by the sponsor for his immediate transportation back to the Independent State of Samoa.

History: 2007, PL 30-7.

41.0911 Authority of the Governor to implement moratorium.

The Governor of American Samoa is granted the authority to place a moratorium on the issuance of guest worker permits upon his/her determination that any of the following has occurred:

- (a) There are sufficient willing individuals in American Samoa to fill the vacancies

certified by sponsor;

(b) That the influx of guest workers has placed an unbearable strain on the resources, utilities, infrastructure or basic services of American Samoa;

(c) That the guest worker permits have been abused and misused, leading to undesired negative results; or

(d) That the further issuance of said permits will not be in the best interest of American Samoa.

History: 2007, PL 30-7.

41.0912 Guest worker's family not included in permit—Eligibility for residence status.

(a) Each person who is granted permission to enter American Samoa on a guest worker permit is not entitled to inclusion of his/her immediate relatives for sponsorship under the guest worker permit.

(b) Guest workers shall not become eligible for residence status in American Samoa under chapter 03 of this Title.

(c) In the event that a guest worker applies and is granted an alternate residence status under the provisions of this Title, the years that he/she spent in American Samoa as a guest worker shall not be counted towards his/her application for permanent residence status pursuant to the provisions of section 41.0403 and as provided in the American Samoa Code Annotated.

History: 2007, PL 30-7.

41.0913 Amnesty for foreign nationals residing in American Samoa without authorization.

(a) In order to meet the guest worker permit requirements, and at the same time maintain the population at current levels, amnesty is hereby granted to nationals of the Independent State of Samoa of Samoan ancestry residing in American Samoa without proper authorization granted by the Attorney General or the Immigration Board, in order to become employed by sponsor as a guest worker, subject to employment requirements, provided however, that no individual shall be entitled to amnesty unless that individual is deemed qualified and is issued a guest worker permit.

(b) This grant of amnesty shall expire 90 days from the effective date of this law.

History: 2007, PL 30-7.

41.0914 No board approval necessary for guest worker permits.

Because it is the intent of this law to provide a more efficient and expeditious means of providing necessary workers for the two canneries and call center, guest worker permits do not require the approval of the Immigration Board.

History: 2007, PL 30-7.

41.0915 Registration forms.

The Attorney General is authorized and directed to utilize his/her authority under section 41.0306 to carry out and to implement the provisions of this chapter.

History: 2007, PL 30-7.

41.0916 Authority to adopt rules.

The Attorney General shall adopt administrative rules pursuant to 4.1001 et seq., to implement the provisions of this chapter.

History: 2007, PL 30-7.

41.0917 Certificate—Personal possession required.

(a) Every guest worker residing in American Samoa shall at all times carry with him/her and have in his/her personal possession any certificate of alien registration receipt card issued to him/her pursuant to this chapter.

(b) Any guest worker who fails to comply with this section shall be guilty of a class B misdemeanor.

History: 2007, PL 30-7.

41.0918 Change of address.

Every guest worker who enters American Samoa shall within 14 days following his arrival, notify the Attorney General and the sponsor in writing of his/her current address and any additional information as may by regulation be required by the Attorney General; and shall notify the Attorney General in writing whenever there is a change in his/her address, within 5 days of that change. Failure to comply with this section may subject the guest worker to immediate revocation of his/her permit.

History: 2007, PL 30-7.

41.0919 Sponsor penalty.

The sponsor of the guest worker shall be fined \$100 per day for each infraction of the sponsor's responsibilities as provided by this statute.

History: 2007, PL 30-7.

41.0920 Abrogation of relevant laws.

This law does not abrogate relevant provisions of other laws, except as specifically included herein.

History: 2007, PL 30-7.

